



A New York Limited Liability Partnership
Lawrence R. Sandak, Managing Resident Partner

John P. Barry
Member of the Firm
d 973.274.6081
f 973.274.3299
jbarry@proskauer.com
www.proskauer.com

January 10, 2011

Via ECF

Honorable Faith S. Hochberg
District Court of New Jersey
Martin Luther King, Jr.
Federal Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: *Byron Huart and Kevin Huart v. The Great Atlantic & Pacific Tea Company, et al.*
Civil Action No.: 10-54379(FSH)(PS)

Dear Judge Hochberg:

We write in response to Your Honor's Order dated January 3, 2011. Defendants respectfully request that the above-referenced matter be stayed in its entirety pending the outcome of defendant Great Atlantic & Pacific Tea Company's ("A&P") bankruptcy proceeding. Such a stay – as to include the individual defendants John Bincoletto and Anthony Alibrando – is warranted to avoid (i) *substantial* prejudice to all defendants and (ii) duplicative effort and unnecessary expense and burden on the witnesses, the parties, and this Court.

Specifically, plaintiffs Byron and Kevin Huart ("Plaintiffs") assert that individual defendants Bincoletto and Alibrando aided and abetted the allegedly discriminatory and unlawful acts of A&P (discriminatory discharge, failure to promote and harassment) and falsely imprisoned them in violation of New Jersey state and federal law. The adjudication of these claims will undoubtedly address the merits of Plaintiffs' causes of action against A&P, i.e., discrimination, hostile work environment and false imprisonment. Thus, all defendants will be greatly prejudiced if this matter is not stayed in its entirety because A&P will be prohibited from asserting relevant and valid defenses and the individual defendants will be greatly prejudiced from A&P's inability to assert these defenses. Furthermore, upon the lifting of the automatic stay as to A&P, the parties will have to re-depose witnesses, serve additional discovery and conduct another trial.

Proskauer»

Honorable Faith S. Hochberg

January 10, 2011

Page 2

Accordingly, this matter should be stayed in its entirety until the outcome of A&P's bankruptcy proceeding.

Respectfully submitted,

/s/ JOHN P. BARRY
John P. Barry

cc: Victor Zarilli, Esq. (via email and ECF)